UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/NGO/149
22 March 2000

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 5 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement* submitted by the Federation of Associations for the Defence and Promotion of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 March 2000]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

THE REFERENDUM ON THE SELF-DETERMINATION OF WESTERN SAHARA MUST BE HELD WITHIN THE STIPULATED TIME-FRAME

In his report S/1999/1219 of 6 December 1999, the Secretary-General of the United Nations, Mr. Kofi Annan, stated as follows: "It appears from section II of the present report that MINURSO might be faced with a lengthy process if it were to consider the appeals of tens of thousands of applicants. Under the circumstances, the prospect of holding the referendum within a reasonable period of time, instead of becoming closer, has become even more distant. The problems posed by the current number of appeals and their opposing positions taken by the parties on the issue of admissibility seem to allow little possibility of holding the referendum before 2002 or even beyond" (para. 28).

In the light of this report by the Secretary-General of the United Nations (the central issue of which is the problem of appeals - totalling 79,000 - that have been filed from the first provisional voter list, issued on 15 July 1998, and the consequent possibility of a further delay in the holding of the referendum on the self-determination of Western Sahara, issues which we shall be discussing below), on behalf of the Federation of Associations for the Defence and Promotion of Human Rights, we would like to draw attention to the following matters:

(1) We are clearly facing a new delaying tactic by the Kingdom of Morocco, designed to prevent the Saharawi people from exercising its right to self-determination in accordance with international law. This tactic is nothing new: virtually all stages of the peace process have been held up by Morocco, which is persisting in its refusal to cooperate with the United Nations mission, demonstrating that it has no interest in finding a solution to the conflict. (Among many other obstructionist manoeuvres, we note the refusal of the Moroccan Government to cooperate with the independent jurist, Emmanuel Roucounas, entrusted by the United Nations with resolving the cases of political prisoners, thus preventing a just and proper settlement of the situation of hundreds of disappeared Saharawis.)

(2) We denounce the inaction of the international community in the face of these countless violations of human rights, noting, in particular, the callous attitude of the Spanish Government, which, far from emulating the role played by the Portuguese Government in the process of self-determination of East Timor, is maintaining a grievous institutional silence, accompanied, of course, by fishing agreements in the Saharawi waters with the Government of Morocco, and, still worse, also accompanied by the sale of arms to that same Government. With regard to that sale of arms, we wish to draw attention to the study conducted by the UNESCO Chair on Peace and Human Rights of the Autonomous University of Barcelona, in December 1999, which states that, during the first half of 1999, Spain might have exported arms to an approximate value of 20,000 million pesetas, a figure exceeding the 15,079 million recently declared by the Government. The countries "benefiting" from this export (countries which are not complying with the requirements of the European Union Code of Conduct on Arms Exports) include: Turkey, Colombia, Saudi Arabia, Ghana, ... With regard to the sale of arms to Morocco, the UNESCO Chair states that, while official data indicate that the Spanish Government has sold transport vehicles to a value of 997.4 million pesetas, it is very likely that these are IVECO-Pegaso trucks, and that ordnance valued at 19 million pesetas has not been taken into account. In addition, according to the Chair, Morocco does not report these sales to

the United Nations Register of Conventional Arms. We deeply deplore this mercenary attitude of the Spanish Government, which - as so often before - is placing its economic interests above human dignity and human rights.

In the context of this unpardonable inaction on the part of the international community as a whole, we would like to recall the so-called "American Big Brother theory", according to which certain countries included within the circle of friends of the United States are exempt from criticism in their anti-democratic activities; there can be no doubt that Morocco is one of these obviously protected countries.

(3) We deplore the repeated and unpunished violations of human rights committed in the occupied areas of Western Sahara by the Moroccan security forces, in contravention of the international treaties signed by the Kingdom of Morocco. Among such violations, we can cite the **use of napalm and white phosphorus bombs, extrajudicial or summary executions, enforced disappearances** (a practice internationally prohibited under article 9 of the Universal Declaration of Human Rights, under articles 6, 7, 9 and 10 of the International Covenant on Civil and Political Rights and under the Declaration on the Protection of All Persons from Enforced Disappearance - General Assembly resolution 47/133 of 18 December 1992), the **practice of torture** (contravening article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights), **unlawful judicial procedures** (denying the rights recognized in articles 10 and 11 of the Universal Declaration of Human Rights and in article 14 of the Covenant on Civil and Political Rights), **arbitrary detentions** (in contravention of General Assembly resolution 43/173 of 9 December 1988), the **state of siege** and the **information blackout**, as well as the **implantation of settlers**, to distort the natural demographic composition of the Territory. It should be noted that these practices are being conducted by a system of repression comprising more than 250,000 Moroccan agents, grouped in the following bodies: the army, the Office for the Supervision of the Territory, the Judicial Police, the Royal Gendarmerie and the mobile intervention companies. (We believe that, as a precondition for the conduct of a free referendum, these services and bodies of the Moroccan State should leave the territory of Western Sahara during the process of that referendum.)

(4) In this general context of obstructionism, inexcusable inaction and violations of human rights, we consider it a serious error to postpone the referendum on the self-determination of Western Sahara until 2002 (or even later), as noted - although not endorsed - by the Secretary-General of the United Nations in his report S/1999/1219. As pointed out in this report, in paragraphs 4 and 5, both the Frente POLISARIO and the Government of Algeria maintain that "a strict interpretation of admissibility could reduce the time needed for completing the appeals phase". The same line is followed in the letter written by Richard Stanforth (Coordinator of the Western Sahara Campaign) to Mr. P. Hain, British Minister of State in charge of North Africa and the Middle East at the Foreign Office (see: http://www.arso.org/wsc-1299.htm). Bearing in mind that, as stated in paragraph 9 of the Secretary-General's report, "the great majority of the appeals filed indicate the names of witnesses who purportedly will provide, at the appeals hearings, new facts in support of the appellants' claim for inclusion", Richard Stanforth reminds us that, for an appeal to be admissible, it must first be proved "that the member of the Commission who ruled on the case was not aware of the subsequent circumstances or developments or of any facts cited in support of the appeal" (as stated in article 21 (d) (i) of the operational directives for the implementation of the appeals process, document

S/1999/483/Add.1, of 13 May 1999). In addition, it is clearly stated that this new information must be submitted with the appeal ("Consideration of the admissibility of an appeal shall be conducted by the section of the Appeals Chamber on the basis of the documents filed and available" - article 20 of the said guidelines). At the same time, Stanforth maintains: "If, as the Secretary-General notes, the majority of these applicants and witnesses fail to provide new information, the Western Sahara Campaign can only conclude that they must be rejected by the United Nations Appeals Chamber". Accordingly, what we are faced with is a clear intention to convert the process of appeals into a second round of identification: as stated in the Secretary-General's report, dated 28 October 1999 (S/1999/1098), "the more than 79,000 appeals received correspond exactly to the number of persons omitted from the first part of the provisional list of potential voters", the great majority residing in Morocco.

In the light of everything set forth above, the Federation of Associations for the Defence and Promotion of Human Rights expresses its concern at the possibility of a process of "Timorization" of the Saharawi problem, allowing it to fester and provoking an irrational outbreak of violence. (Nor can we discount the possibility of a resumption of the war, if the Saharawi people are let down once again. The Secretary-General of the Frente POLISARIO, Mr. Mohamed Abdelaziz, said in an interview (El País, 15 March 1991) that, if the Moroccan blockade causes the process to fail and no referendum is held on free self-determination, a vacuum will result which only the resumption of the war can fill.)

On the other hand, we express our doubt that the decision of the United Nations Security Council to carry out voter identification starting with the updated lists of the Spanish census of 1974 is being complied with, since, in December 1998, 147,000 persons had been identified (twice the number recorded in the Spanish census) and, as stated in the last report by the Secretary-General, "on 30 November 1999, the overall total of those identified since 1994 reached 190,023" (S/1999/1219, para. 8).

In conclusion, we wish to say that it is in the hands of the Secretary-General of the United Nations, Mr. Kofi Annan, to ensure that the operational directives for the implementation of the appeals process (S/1999/483/Add.1) are scrupulously observed, thus precluding any unnecessary postponement of the referendum on the self-determination of Western Sahara. We therefore request Mr. Kofi Annan to ensure the strict implementation of the operational directives.